

REMARKS

Reconsideration of the present application is respectfully requested. Claims 8-30 are pending. Claims 8, 13, and 28 have been amended. No claims have been canceled or added.

Objection to the Claim

Claim 13 is objected to for minor informalities. Accordingly, Applicants have amended claim 13 to overcome the objection. Withdrawal of the objection is respectfully requested.

35 U.S.C. § 112 Rejections

Claims 28-30 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Although Applicants do not necessarily agree with the Examiner's reasoning behind the rejection, Applicants have amended claim 28 to remove the language at issue solely for the purpose of advancing prosecution. Withdrawal of the rejection is respectfully requested.

35 U.S.C. § 103(a) Rejections

Claims 8-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Modiano et al. ("Design and analysis of an asynchronous WDM local area network using a master/slave scheduler", hereinafter "Modiano"). Applicants respectfully traverse the rejections.

Claim 8 as amended sets forth:

transmitting a control packet over a control channel of the WDM network, ..., the control packet specifying a first one of the plurality of nodes in the network as a source node, a second one of the plurality of nodes in the network as a destination node and ***a value which corresponds to an amount of information which the source node can transmit...***

(Claim 8 as amended; emphasis added)

As set forth in claim 8, the control packet as claimed specifies a value which corresponds to an amount of information which the source node can transmit. In contrast, Modiano fails to teach at least the above limitation of claim 8.

As stated in the Office Action, Modiano does not disclose a control packet specifying a value that corresponds to an amount of information which the source node can transmit (Office Action, p. 5, lines 1-2). However, the Office Action alleged that, at the time of invention, it would have been obvious to one of ordinary skill in the art to include ***when to end transmitting*** into the timing considerations so that the transmissions from multiple nodes do not collide. The Office Action further alleged that ***an obvious way to indicate when to end transmissions would be to provide a transmission limit of bits for the source node***, which corresponds to the claim limitation of a value that corresponds to an amount of information that the source node can transmit. (Office Action, p. 5, first paragraph; emphasis added). However, as the Office Action admits, Modiano discloses neither including when to end transmitting into the timing considerations nor indicating when to end transmissions would be to provide a transmission limit of bits for the source node.

If the Examiner is relying on facts which are not of record as common knowledge to arrive at Applicants' claim limitation noted above, then the **Examiner is respectfully**

requested to provide evidentiary support of such. The Examiner's attention is directed to MPEP 2144.03(C). Absent such submission of evidentiary support, Applicants submit that the rejection of claim 8 under 35 U.S.C. § 103(a) based solely on Modiano does not render the claim unpatentable. Therefore, Applicants submit that claim 8 is patentable over the Modiano. Withdrawal of the rejection is respectfully requested.

Furthermore, the alleged motivation to one of ordinary skill in the art to modify Modiano as proposed in the Office Action is to avoid collision of transmission of data from multiple nodes (Office Action, p. 5). However, Modiano does not disclose, suggest, or imply any concern over collision of transmission of data from multiple nodes. Moreover, the data from different optical terminals (OTs) is transmitted over different wavelengths in Modiano (Modiano, p. 901, section II, first paragraph, lines 14-16; p. 901, section III, first paragraph, lines 2-4), thus, collision of transmission of data from multiple nodes may be avoided as different wavelengths are assigned to different transmissions. As such, one of ordinary skill in the art, in considering the system in Modiano, would not have been concerned over collision of transmission of data from multiple nodes and thus, would not be motivated to modify Modiano as proposed in the Office Action. For at least this additional reason, claim 8 is patentable over Modiano. Withdrawal of the rejection is respectfully requested.

For reasons similar to those discussed above with respect to claim 8, claims 23 and 28 are also patentable over Modiano. Withdrawal of the rejection is respectfully requested.

Claims 9-22, 24-27, and 29-30 depend, directly or indirectly, from claims 8, 23, and 28, respectively. Thus, having additional limitations, claims 9-22, 24-27, and 29-30 are patentable over Modiano. Withdrawal of the rejection is respectfully requested.

Conclusion

For at least the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly solicited.


If the Examiner perceives any further obstacle to allowing the present application, he is invited to contact the undersigned at (408) 720-8300.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. §1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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